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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ARIEL ABITTAN,

Case No. 5:20-CV-09340-NC

PLAINTIFF,

UPDATED CASE MANAGEMENT STATEMENT AND RULE 26(f) REPORT

Complaint Filed: December 24, 2020

Judge: Hon. Nathanael Cousins

LILY CHAO (A/K/A TIFFANY CHEN, A/K/A YUTING CHEN), DAMIEN DING (A/K/A DAMIEN LEUNG, A/K/A TAO DING), TEMUJIN LABS INC. (A DELAWARE CORPORATION), AND TEMUJIN LABS INC. (A CAYMAN CORPORATION).

DEFENDANTS.

and

EIAN LABS INC.

NOMINAL DEFENDANT

Pursuant to Federal Rule of Civil Procedure 26, Local Rule 16-9, this Court's Standing Orders, and the Stipulation Re Continuance of Case Management Conference; Order (Dkt. No. 156), Defendants¹ submit this Case Management Statement and Rule 26(f) Report in advance of the Case Management Conference scheduled for September 28, 2022. At 3:51 pm PT on September 21, 2022, counsel for Defendants emailed counsel for Plaintiff to coordinate on the submission of a joint CMC statement. Counsel for Defendants did not respond until over four hours later at 7:53 pm PT, well after business hours. As such, counsel for Defendants could not coordinate with counsel for Plaintiff regarding the submission of a joint CMC statement. Defendants therefore file a separate CMC statement that only includes their updated positions (those that have changed since the last Joint CMC Statement was filed on March 23, 2022, Dkt. No. 134, and that were not included in the CMC statement filed by Plaintiff).

A. Jurisdiction and Service

2. Defendants' Position

Defendants do not dispute service, personal jurisdiction or venue and have filed an Answer to the Second Amended Complaint (Dkt. No. 152).

B. Relevant Factual Background

2. Defendants' Statement Regarding Plaintiff's Allegations

Defendants vigorously dispute all of Plaintiff's allegations. Rather, it is Plaintiff that is spinning an elaborate web of lies and deception, fabricating alleged partnerships, agreements and representations that do not exist and never have. It is Plaintiff that has sought to harm, steal from, and defraud Defendants and the Temujin business.

For example, Plaintiff's complaint starts out by falsely identifying the Defendants in the action. Plaintiff knows that Lily Chao ("Chao") and Yuting Chen ("Chen") are two separate individuals. Plaintiff also knows that the watch business involved Chen, whereas the crypto business involved Chao.

Regarding the watch business, Defendants dispute that there was a 50/50 partnership

¹ Plaintiff named the Defendants as follows in the caption: Defendants Lily Chao (a/k/a Tiffany Chen, a/k/a Yuting Chen) ("Chao"), Damien Ding (a/k/a Damien Leung, a/k/a Tao Ding) ("Ding"), and Temujin Labs Inc., a Cayman Islands corporation ("Temujin Cayman").

1 between Abittan and the individual defendants. Abittan does not co-own any watch with the
 2 individual defendants, and Abittan did not make an “original” investment of \$1,139,270. On the
 3 contrary, on information and belief, Abittan still owes Chen a substantial amount for the
 4 proceeds of reselling watches that Chen acquired, in addition to watches and sales proceeds
 5 unaccounted for that Abittan is responsible for. As a result, Abittan currently owes Chen
 6 millions of dollars in the watch business.

7 Regarding the crypto business, Temujin helped develop blockchain-based financial
 8 technology known as “Findora.” The Findora blockchain facilitates blockchain transaction
 9 processing in a way that is both auditable and preserves user privacy.

10 Early in the crypto business, Abittan voluntarily transferred Eian Lab’s intellectual
 11 property to discharge a substantial debt of \$300,000. The transfer was evidenced by a duly
 12 executed agreement, the authenticity of which has never been disputed by Abittan. This action
 13 brought by Abittan is at most a case of seller’s remorse. At worst, it is a calculated double-dip by
 14 Abittan to reap an unjustified gain on a speculative tech startup by fraudulently claiming an
 15 ownership interest in it.

16 Around October 2020, Abittan began to foment discord among Temujin’s employee and
 17 advisor base, claiming that he owned some portion of Temujin’s business and intellectual
 18 property. Ultimately, Abittan’s misstatements disrupted Temujin’s employee and advisor base,
 19 leading several of them to attempt to undermine the business.

20 Plaintiff’s assertions were false. Plaintiff had no rightful claim to ownership in Temujin
 21 or to any intellectual property related to Temujin or Findora. As noted, over a year and a half
 22 earlier, in his capacity as a shareholder of a different entity, he had approved in writing the sale
 23 of the intellectual property assets at issue to Temujin Cayman. Plaintiff’s ownership assertions,
 24 while false, had their intended effect, and precipitated a string of employee and advisor
 25 defections from Temujin’s business, accompanied by various forms of interference with the
 26 business. Plaintiff conspired with Temujin Delaware’s then-CEO and an advisor to Temujin to
 27 interfere with Temujin’s business, thereby damaging it. These claims are the subject of a
 28 pending state court action filed by Temujin Delaware against Abittan and others that is currently

1 pending in the Superior Court of Santa Clara County.

2 In an effort to justify his lies, deception, and wrongful interference, Plaintiff has resorted
 3 to meritless claims in both this Court and the Superior Court of Santa Clara County against
 4 Defendants and the Temujin business. It appears that Plaintiff is intent on maximizing the use of
 5 judicial resources. Having had his Complaint in this Court against Temujin Delaware dismissed
 6 because it should have been brought as a counterclaim in the earlier-filed Superior Court action
 7 by Temujin Delaware, Abittan has now filed a Cross-Complaint in the Superior Court action
 8 naming the same two entities and two individuals that he named as defendants in this case,
 9 together with another twenty entities and individuals that he again alleges were part of a “RICO
 10 enterprise” and “fraudulent scheme.” Apart from the vastly expanded number of cross-
 11 defendants in the state court action, Abittan raises nearly identical claims to those asserted in this
 12 Court (except for the derivative claims on purported behalf of Eian Labs Inc.).

13 As such, Abittan’s meritless claims are being litigated in two separate courts. Abittan’s
 14 bizarre and unsupported allegations, including that Defendants masterminded a “RICO
 15 enterprise” and “fraudulent scheme” are merely an extension of Plaintiff’s all-out baseless war
 16 against Defendants and the Temujin business.

17 **C. Legal Issues**

18 **2. Defendants’ Position**

19 The Defendants dispute Plaintiff’s allegations, as detailed in their Answer to the Second
 20 Amended Complaint.

21 **D. Motions**

| MOVING PARTY | MOTION | STATUS |
|--|--|--------------------|
| Defendant Temujin Labs Inc. (Delaware) | Motion to Dismiss Complaint filed 4/9/21 | Granted on 7/19/21 |
| Individual Defendants and Temujin Labs Inc. (Cayman) | Motion to Dismiss, or in the Alternative Quash Service of Summons filed 5/28/21 | Granted on 7/19/21 |
| Individual Defendants, Temujin Labs Inc. (Cayman), Temujin Labs Inc. (Delaware) | Administrative Motion to Continue Case Management Conference and Associated Deadlines filed on 7/2/21 | Denied on 7/6/21 |

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|---|---|---|--|
| 1 | Plaintiff Ariel Abittan | Motion for an Order Allowing Defendants Lily Chao and Damien Ding to be Served (1) Through Counsel, (2) Through Temujin Labs Inc. (Delaware)'s Registered Agent, (3) By Text, or (4) By Publication filed on 9/20/21 | Granted on 11/24/21 |
| 2 | Defendant Temujin Labs Inc. (Cayman) | Motion to Dismiss Complaint filed on 11/8/21 | Granted on 5/20/22 |
| 3 | Plaintiff Ariel Abittan | Motion to Stay filed 1/12/22 | Denied on 2/7/22 |
| 4 | Plaintiff Ariel Abittan | Motion for Leave to File Amended Complaint filed on 2/23/22 | Terminated as moot on 5/20/22 (ECF 141) |
| 5 | Defendant Temujin Labs Inc. (Cayman) and Individual Defendants | Motion to Strike Portions of Plaintiff's Amended Complaint | Terminated on 7/4/22 (Dkt No. 148) |

12 Defendants submit that this Court should dismiss the action and allow the claims at issue
 13 in this case to be litigated in the state forum currently pending in Santa Clara County Superior
 14 Court, Case No. 20CV372622 (the “State Action”). Defendants also submit that motions for
 15 summary judgment and/or other substantive motions may be appropriate in due course.

16 Defendants also alert the Court to their filing on September 21, 2022 in the State Action,
 17 of a Motion (1) to Disqualify Roche Freedman LLP; (2) to stay that Court’s August 22, 2022
 18 Discovery Order pending resolution of the motion to disqualify; and (3) to request clarification of
 19 the that Court’s August 22, 2022 Discovery Order regarding whether the individual defendants
 20 must produce their Chinese character names (as opposed to only their English language names).
 21 That Motion is currently set to be heard on October 27, 2022. Defendants may need to bring a
 22 similar motion to disqualify in this action.

23 **H. Discovery**

24 **2. Defendants’ Rule 26(f) Report:**

25 Defendants provide the following information in connection with the Rule 26(f) Report:

26 a. Proposed Changes to Rule 26(a)(1) Disclosures

- 27 i. Defendants provided their initial disclosures on December 1, 2021.
 28 ii. No changes to the standard requirements are necessary.

1 b. Scope and Subjects of Discovery

2 i. Without prejudice to Defendants' rights to seek discovery on any relevant
 3 issues, Defendants contemplate that they will need and seek discovery from
 4 Plaintiff and any relevant non-party regarding Plaintiff's claims and theories of
 5 liability and damages, as well as Defendants' defenses.

6 ii Defendants contemplate that Plaintiff will seek discovery from Defendants
 7 and others regarding Plaintiff's claims, theories of liability and damages,
 8 Defendants' defenses to each, and any and all factual, evidentiary, and legal
 9 support.

10 iii. The anticipated methods of future discovery will include: (1) written
 11 discovery in the form of Interrogatories, Requests for Admissions, and Requests
 12 for Production of Documents; (2) written discovery via issuance of subpoenas to
 13 third parties; (3) oral depositions of the parties; and (4) oral depositions of third
 14 parties.

15 iv. Defendants submit that the parties should not be permitted to serve written
 16 discovery or take depositions until the pending motion to disqualify filed in the
 17 State Action has been adjudicated.

18 v. Defendants agree that supplementations under Rule 26(e) are due in
 19 reasonable time after material, relevant facts are learned, or by court order.

20 vi. Defendants agree that discovery deadlines shall be set by the Court and
 21 respectfully submits that these should be set after the pending motion to
 22 disqualify filed in the State Action has been adjudicated.

23 c. Issues Relating to Electronically Stored Information

24 i. Defendants do not anticipate any issues relating to disclosure or discovery
 25 of electronically stored information.

26 ii. The parties will address any such issues in the event they arise.

27 d. Procedures for Resolving Disputes Regarding Claims of Privilege

28 i. Defendants agree that Rule 26(b)(5) should apply to any claims of

privilege or protecting materials asserted as being for trial-preparation.

ii. Defendants agree that this proposed procedure should be adopted within the Court's further orders.

f. Other Orders

i. Because disclosure and discovery activity in this action is likely to involve the production of highly sensitive confidential information, Defendants will seek a protective order based on the Court's model protective orders, with appropriate modifications as necessary. Defendants will work with Plaintiff to seek to agree a proposed protective order to be submitted to the Court for approval.

ii. Defendants submit that a scheduling order under Rule 16(b) should not be entered until the pending motion to disqualify filed in the State Action has been adjudicated.

iii. Defendants do not request an order under Rule 16(c) at this time.

g. Changes in Discovery Limitations

i. Defendants anticipate that they will need to take more than ten (10) depositions because of the extensive (but false) allegations by Plaintiff and with respect to their defenses. Defendants also anticipate that they will need an additional ten (10) interrogatories, making a total of 35, because of the Plaintiff's allegations.

ii. Otherwise, Defendants do not currently anticipate any other changes to the limitations on discovery proposed by the Federal Rules of Civil Procedure, but reserve the right to seek appropriate relief and modifications to the discovery limitations from the Court if necessary.

K. Relief

2. Defendants' Statement

The Defendants dispute Plaintiff's allegations, as detailed in their Answer to the Second Amended Complaint, and deny that they have caused any injury to Plaintiff and deny that he is entitled to the relief he seeks or any relief.

1 **Q. Scheduling**

2 Defendants respectfully submit that the Court set deadlines after the pending motion to
3 disqualify is adjudicated in the State Action.

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5 Dated: September 23, 2022

Respectfully Submitted,

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